

Introduced by Senator Romero
(Coauthor: Senator McClintock)
(Coauthors: Assembly Members Lieber and Portantino)

February 22, 2008

An act to amend Section 54952.2 of, and to add Section 6252.7 to, the Government Code, relating to local agencies.

LEGISLATIVE COUNSEL'S DIGEST

SB 1732, as introduced, Romero. Local agencies.

The Ralph M. Brown Act requires that all meetings of a legislative body of a local agency be open and public and all persons be permitted to attend unless a closed session is authorized. The act prohibits any use of direct communication, personal intermediaries, or technological devices that is employed by a majority of the members of the legislative body to develop a collective concurrence as to action to be taken on an item, with an exception for an authorized teleconference. An appellate court in *Wolfe v. City of Fremont* (2006) 144 Cal.App.4th 533 held that a violation of this prohibition occurs only if a series of meetings by members of a body results in a collective concurrence.

This bill would instead prohibit a majority of members of a legislative body of a local agency from using a series of communications of any kind, directly or through intermediaries, to discuss, deliberate, or take action on any item of business that is within the subject matter jurisdiction of the legislative body. It also would state the Legislature's declaration that it disapproves the holding of the court in the case named above to the extent it construes the prohibition on serial meetings and would state its intention that the changes made by this bill supersede that holding.

The California Public Records Act requires state and local agencies to make their records available for public inspection and to make copies available upon request and payment of a fee unless they are exempt from disclosure. The Ralph M. Brown Act provides that, notwithstanding any other provision of law, agendas of public meetings and any other writings, when distributed to all, or a majority of all, of the members of a legislative body of a local agency by any person in connection with a matter subject to discussion or consideration at a public meeting of the body, are disclosable public records under the California Public Records Act unless exempt from disclosure under that act. The Ralph M. Brown Act requires that these writings be made available for public inspection at the meeting if prepared by the local agency or a member of its legislative body, or after the meeting if prepared by some other person.

This bill would provide that, notwithstanding any other provision of law, when the members of a legislative body of a local agency are authorized to access a writing of the body or of the agency as permitted by law in the administration of their duties, the local agency shall not discriminate between or among any of those members as to which writing or portion thereof is made available or when it is made available, and shall not charge any of those members a fee to inspect or obtain a copy of that writing.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. (a) The Legislature hereby declares that it
2 disapproves the court's holding in *Wolfe v. City of Fremont* (2006)
3 144 Cal.App.4th 533, 545, fn. 6, to the extent that it construes the
4 prohibition against serial meetings by a legislative body of a local
5 agency, as contained in the Ralph M. Brown Act (Chapter 9
6 (commencing with Section 54950) of Part 1 of Division 2 of Title
7 5 of the Government Code, to require that a series of individual
8 meetings by members of a body actually result in a collective
9 concurrence to violate the prohibition rather than also including
10 the process of developing a collective concurrence as a violation
11 of the prohibition.

1 (b) It is the intent of the Legislature that the changes made by
2 Section 3 of this act supersede the court's holding described in
3 subdivision (a).

4 SEC. 2. Section 6252.7 is added to the Government Code, to
5 read:

6 6252.7. Notwithstanding Section 6252.5 or any other provision
7 of law, when the members of a legislative body of a local agency
8 are authorized to access a writing of the body or of the agency as
9 permitted by law in the administration of their duties, the local
10 agency, as defined in Section 54951, shall not discriminate between
11 or among any of those members as to which writing or portion
12 thereof is made available or when it is made available, and shall
13 not charge any of those members a fee to inspect or obtain a copy
14 of that writing.

15 SEC. 3. Section 54952.2 of the Government Code is amended
16 to read:

17 54952.2. (a) As used in this chapter, "meeting" ~~includes~~ *means*
18 any congregation of a majority of the members of a legislative
19 body at the same time and ~~place~~ *location, including teleconference*
20 *location as permitted by Section 54953*, to hear, discuss, ~~or~~
21 ~~deliberate upon, or take action on~~ any item that is within the subject
22 matter jurisdiction of the legislative body ~~or the local agency to~~
23 ~~which it pertains.~~

24 (b) ~~Except as authorized pursuant to Section 54953, any use of~~
25 ~~direct communication, personal intermediaries, or technological~~
26 ~~devices that is employed by a~~ A majority of the members of the ~~a~~
27 legislative body ~~to develop a collective concurrence as to action~~
28 ~~to be taken on an item by the members of the legislative body is~~
29 ~~prohibited~~ *shall not use a series of communications of any kind,*
30 *directly or through intermediaries, to discuss, deliberate, or take*
31 *action on any item of business that is within the subject matter*
32 *jurisdiction of the legislative body.*

33 (c) Nothing in this section shall impose the requirements of this
34 chapter upon any of the following:

35 (1) Individual contacts or conversations between a member of
36 a legislative body and any other person *that do not violate*
37 *subdivision (b).*

38 (2) The attendance of a majority of the members of a legislative
39 body at a conference or similar gathering open to the public that
40 involves a discussion of issues of general interest to the public or

1 to public agencies of the type represented by the legislative body,
2 provided that a majority of the members do not discuss among
3 themselves, other than as part of the scheduled program, business
4 of a specified nature that is within the subject matter jurisdiction
5 of the local agency. Nothing in this paragraph is intended to allow
6 members of the public free admission to a conference or similar
7 gathering at which the organizers have required other participants
8 or registrants to pay fees or charges as a condition of attendance.

9 (3) The attendance of a majority of the members of a legislative
10 body at an open and publicized meeting organized to address a
11 topic of local community concern by a person or organization other
12 than the local agency, provided that a majority of the members do
13 not discuss among themselves, other than as part of the scheduled
14 program, business of a specific nature that is within the subject
15 matter jurisdiction of the legislative body of the local agency.

16 (4) The attendance of a majority of the members of a legislative
17 body at an open and noticed meeting of another body of the local
18 agency, or at an open and noticed meeting of a legislative body of
19 another local agency, provided that a majority of the members do
20 not discuss among themselves, other than as part of the scheduled
21 meeting, business of a specific nature that is within the subject
22 matter jurisdiction of the legislative body of the local agency.

23 (5) The attendance of a majority of the members of a legislative
24 body at a purely social or ceremonial occasion, provided that a
25 majority of the members do not discuss among themselves business
26 of a specific nature that is within the subject matter jurisdiction of
27 the legislative body of the local agency.

28 (6) The attendance of a majority of the members of a legislative
29 body at an open and noticed meeting of a standing committee of
30 that body, provided that the members of the legislative body who
31 are not members of the standing committee attend only as
32 observers.

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35 **CORRECTIONS:**

36 **Heading—Authors.**
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